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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

[REDACTED]

FILE:

[REDACTED]

Office: LOS ANGELES, CA

Date: AUG 02 2004

IN RE:

[REDACTED]

PETITION: Application for Waiver of Grounds of Inadmissibility under Section 212(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(i)

ON BEHALF OF PETITIONER:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Acting District Director, Los Angeles, California. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reconsider. The motion will be denied and the previous decisions of the district director and the AAO will be affirmed.

The applicant is a native and citizen of Mexico who was found to be inadmissible to the United States under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for having attempted to procure admission into the United States by fraud or willful misrepresentation on December 14, 1996. The applicant is married to a lawful permanent resident of the United States and is the beneficiary of an approved Petition for Alien Relative. The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to remain in the United States with her spouse and children.

The acting district director concluded that the applicant had failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Application for Waiver of Grounds of Excludability (Form I-601) accordingly. *Decision of the Acting District Director*, dated December 20, 2002. The decision of the acting district director was affirmed on appeal by the AAO. *Decision of the AAO*, dated July 3, 2003.

On motion to reconsider, counsel asserts that the Form I-601 application was prepared by a notary who failed to submit any hardship information. Counsel contends that if the applicant had been notified of the need to provide evidence of extreme hardship, she would have complied and submitted documentary evidence. Counsel requests that the documentation compiled by counsel be considered by Citizenship and Immigration Services. *Motion to Reconsider*, dated August 1, 2003. The entire record was considered in rendering this decision.

8 C.F.R. § 103.5(a)(2) (2002) states in pertinent part:

A motion to reopen must state the new facts to be provided in the reopened proceeding and be supported by affidavits or other documentary evidence.

8 C.F.R. § 103.5(a)(3) (2002) states in pertinent part:

A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service [now Citizenship and Immigration Services (CIS)] policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision.

8 C.F.R. § 103.3(v) (2002) states in pertinent part:

(v) Summary Dismissal. An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

The AAO notes that although counsel asserts that the documentation offered by the applicant has not been considered, counsel was retained and offered the same documentation on appeal. The prior decision of the AAO considered and addressed the documentation offered by counsel in support of the applicant's claim of extreme hardship. On motion to reconsider, the record does not contain any additional documentation and counsel fails to identify any erroneous conclusion of law or statement of fact in the appeal. The motion will therefore be summarily dismissed.

In proceedings for application for waiver of grounds of inadmissibility under section 212(a)(6)(C) of the Act, the burden of proving eligibility remains entirely with the applicant. *See* Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the previous decisions of the acting district director and the AAO will not be disturbed.

ORDER: The motion is denied. The decision of July 3, 2003 dismissing the appeal is affirmed.